

Securities and Exchange Commission

§ 204.6

has been outstanding for more than 10 years unless facts material to the Government's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering the debt. This limitation does not apply to debts reduced to judgment.

(d) Administrative offset under this subpart may not be initiated against:

(1) A debt in which administrative offset of the type of debt involved is explicitly provided for or prohibited by another statute;

(2) Debts owed by other agencies of the United States or by any State or local Government; or

(3) Debts arising under the Internal Revenue Code of 1954; the Social Security Act; or the tariff laws of the United States.

(e) The procedures for administrative offset in this subpart do not apply to the offset of Federal salaries under 5 U.S.C. 5514 or Federal tax refunds under 31 U.S.C. 3720A and 31 CFR 285.2.

[58 FR 64370, Dec. 7, 1993, as amended at 66 FR 54130, Oct. 26, 2001]

§ 204.4 Demand for payment—notice.

(a) Before offset is made, a written notice will be sent to the debtor. This notice will include:

(1) The type and amount of the debt;

(2) The date when payment is due (not less than thirty days from the date of mailing or hand delivery of the notice);

(3) The agency's intention to collect the debt by administrative offset, including asking the assistance of other Federal agencies to help in the offset whenever possible, if the debtor has not made payment by the payment due date or has not made an arrangement for payment by the payment due date;

(4) The right of the debtor to inspect and copy the Commission's records related to the claim;

(5) The right of the debtor to request a review of the determination of indebtedness and, in the circumstances described in § 204.7, to request an oral hearing from the Commission's designee; and

(6) The right of the debtor to enter into a written agreement with the agency to repay the debt in some other way.

(b) Claims for payment of travel advances and employee training expenses require notification prior to administrative offset as described in this section. Because no oral hearing is required, notice of the right to a hearing need not be included in the notification.

[58 FR 64370, Dec. 7, 1993, as amended at 66 FR 54130, Oct. 26, 2001]

§ 204.5 Debtor's failure to respond.

If the debtor fails to respond to the notice described in § 204.4(a) by the proposed effective date specified in the notice, the Commission may take further action under this section or under the Federal Claims Collection Standards (31 CFR 901.3). The commission may collect by administrative offset if the debtor:

(a) Has not made payment by the payment due date;

(b) Has not requested a review of the claim within the agency as set out in § 204.6; or

(c) Has not made an arrangement for payment by the payment due date.

[58 FR 64370, Dec. 7, 1993, as amended at 66 FR 54130, Oct. 26, 2001]

§ 204.6 Agency review.

(a) To the extent that a debt owed has not been established by judicial or administrative order, a debtor may request a hearing concerning the existence or amount of the debt or the terms of repayment. With respect to debts established by a judicial or administrative order, a debtor may request a hearing concerning the payment or other discharge of the debt. A request to review a disputed debt must be submitted to the Commission official who provided notification within 30 calendar days of the receipt of the written notice described in § 204.4(c).

(b) The Commission will provide a copy of the record to the debtor and advise him/her to furnish available evidence to support his or her position. Upon receipt of the evidence, the written record of indebtedness will be reviewed and the debtor will be informed of the results of that review.

(c) Pending the resolution of a dispute by the debtor, transactions in any of the debtor's accounts maintained by